

House Study Bill 524 - Introduced

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
AGRICULTURE BILL BY
CHAIRPERSON GRASSLEY)

A BILL FOR

1 An Act relating to corn promotion, including special
2 referendums, the assessment of a checkoff, and voting and
3 refund procedures, and making penalties applicable.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 185C.16, Code 2014, is amended to read
2 as follows:

3 **185C.16 Notice of referendum.**

4 1. Notice The secretary shall provide a notice of a
5 referendum election to initiate or terminate a promotional
6 order. The notice shall be given by publication in a newspaper
7 of general circulation in this state at least ten days prior to
8 the date of the referendum and in any other reasonable manner
9 as determined by the secretary for the initial referendum and
10 by the board for termination of the promotional order.

11 2. The secretary shall provide notice of a special
12 referendum to each person included on the producer voting list
13 as provided in section 185C.20A. The notice shall be delivered
14 as follows:

15 a. Personally by mail or electronic mail within sixty days
16 of the date that the special referendum is to be conducted.

17 b. By publication in a newspaper of general circulation in
18 this state in the same manner provided in subsection 1.

19 Sec. 2. Section 185C.17, Code 2014, is amended to read as
20 follows:

21 **185C.17 Contents of notice.**

22 The notice of referendum required in section 185C.16
23 shall set forth the period of time for voting, voting
24 places, and such other information as the secretary may deem
25 necessary in an initial referendum. The board shall make such
26 determinations in any subsequent referendum. A notice for a
27 special referendum conducted pursuant to section 185C.21 shall
28 also state that a producer may request a mail ballot to vote as
29 provided in section 185C.17A.

30 Sec. 3. NEW SECTION. **185C.17A Voting requirements.**

31 1. An eligible producer shall vote by casting a ballot and
32 signing a certification form swearing that the producer is
33 eligible to vote.

34 2. Except as provided in subsection 3, an eligible producer
35 shall vote at a voting place designated by the secretary.

1 3. *a.* In the case of a special referendum conducted
2 pursuant to section 185C.21, an eligible producer may vote by
3 mail ballot as required by the secretary.

4 *b.* A producer must submit a mail ballot request card to
5 the secretary which must be received by the secretary at least
6 forty-five days before the date of the special referendum.

7 *c.* Upon receipt of a mail ballot request card, submitted by
8 a producer, the secretary shall include the producer's name,
9 address, and any electronic mail address on the producer voting
10 list required to be maintained under section 185C.20A.

11 *d.* Upon receipt of a timely submitted mail ballot request
12 card submitted by a producer, the secretary shall deliver
13 a mail ballot and certification form to the producer. The
14 mail ballot and certification form must allow a producer to
15 easily send the ballot and form together to the secretary via
16 ordinary mail. The secretary may also deliver an accompanying
17 envelope addressed to the secretary to each producer requesting
18 to vote by mail ballot. The secretary must deliver the mail
19 ballot, certification form, and any accompanying envelope to
20 the producer at least five days before the date of the special
21 referendum.

22 Sec. 4. Section 185C.18, Code 2014, is amended to read as
23 follows:

24 **185C.18 Counting ballots.**

25 At the close of a referendum voting period, the secretary
26 shall count and tabulate the ballots cast during the referendum
27 period. In a special referendum conducted pursuant to section
28 185C.21, a completed mail ballot and certification form as
29 provided in section 185C.17A must be received by the secretary
30 on or prior to the date of the special referendum or postmarked
31 by the United States postal service on or prior to the date of
32 the special referendum.

33 Sec. 5. NEW SECTION. **185C.18A Special referendums —**
34 **assistive service — authority to contract.**

35 The secretary may contract with a person qualified to

1 provide assistance services in conducting special referendums
2 as provided in section 185C.21. The person may assist the
3 secretary in providing a notice of the special referendum as
4 provided in section 185C.16, providing mail ballot request
5 cards as provided in section 185C.17A, counting ballots as
6 provided in section 185C.18, and maintaining a producer voting
7 list as provided in section 185C.20A.

8 **Sec. 6. NEW SECTION. 185C.20A Producer voting list —**
9 **registration; not a public record.**

10 1. The secretary shall maintain a producer voting list. The
11 producer voting list shall only include the producer's name,
12 mailing address, and electronic mail address, if any. The
13 department may purge the list as necessary to remove producers
14 who are not eligible to vote in a special referendum conducted
15 pursuant to section 185C.21.

16 2. The secretary shall provide registration postcards to
17 producers who request to be included on the producer voting
18 list. A producer shall not be required to be included on the
19 list.

20 3. The secretary shall provide notice of a special
21 referendum to each producer included on the producer voting
22 list as provided in section 185C.16.

23 4. The producer voting list is not a public record under
24 chapter 22 and is not otherwise subject to access by any
25 person other than the secretary or a person designated by the
26 secretary to administer this chapter. A designated person
27 shall only use the list for purposes of notifying producers of
28 a special referendum.

29 **Sec. 7. Section 185C.21, Code 2014, is amended to read as**
30 **follows:**

31 **185C.21 State assessment — rates.**

32 1. The board shall determine and set the state assessment
33 rate. State assessments collected pursuant to the promotional
34 order shall be paid into the corn promotion fund established
35 in section 185C.26. Except as provided in subsection 2, a the

1 maximum state assessment rate shall not exceed one-quarter of
2 one cent ~~per imposed on each bushel upon of~~ corn marketed in
3 this state. ~~The board shall establish the effective date of~~
4 ~~a rate change.~~

5 2. Upon request of the board, the secretary shall call
6 a special referendum for producers to vote on whether to
7 authorize an increase in the state assessment ~~above rate to~~
8 exceed the maximum one-quarter of one cent per imposed on
9 each bushel of corn marketed in this state, notwithstanding
10 subsection 1. The special referendum shall not be conducted
11 less than ninety days after the board delivers its request to
12 the secretary. The special referendum shall be conducted as
13 provided in this chapter for referendum elections. However,
14 the special referendum shall not affect the existence or length
15 of the promotional order in effect. If a majority of the
16 producers voting in the special referendum approve the state
17 assessment rate increase, the board may increase the ~~assessment~~
18 rate to the amount approved in the special referendum. The
19 board shall establish the effective date of a rate change.
20 However, a the maximum state assessment rate shall not
21 ~~exceed one cent per bushel of corn marketed in this state the~~
22 scheduled maximum rate determined as follows:

23 a. Before September 1, 2014, one cent.

24 b. For each marketing year of the period beginning September
25 1, 2014, and ending August 31, 2019, two cents.

26 c. For each marketing year of the period beginning September
27 1, 2019, and ending August 31, 2024, three cents.

28 d. For each marketing year of the period beginning September
29 1, 2024, and ending August 31, 2029, four cents.

30 e. For each marketing year beginning on and after September
31 1, 2029, five cents.

32 Sec. 8. Section 185C.22, Code 2014, is amended to read as
33 follows:

34 **185C.22 ~~State assessment on purchase invoice~~ Settlement**
35 **documents.**

1 After a promotional order has been issued, the first
2 purchaser at the time of payment for corn shall ~~show~~ provide
3 the producer with settlement documents which include all of the
4 following:

5 1. A purchase invoice showing the total amount of the state
6 assessment deducted from the sale ~~on the purchase invoice~~.

7 2. A registration postcard as provided in section 185C.20A.

8 3. A refund form as provided in section 185C.27.

9 Sec. 9. Section 185C.25, subsection 3, Code 2014, is amended
10 to read as follows:

11 3. The secretary shall conduct the election as provided for
12 a referendum under this chapter, including sections 185C.16
13 through ~~185C.20~~ 185C.20A. If upon counting and tabulating the
14 ballots, the secretary determines that a majority of voting
15 producers favor termination of the state assessment, the
16 secretary, in cooperation with the board, shall terminate the
17 state assessment in an orderly manner as soon as practicable.

18 EXPLANATION

19 The inclusion of this explanation does not constitute agreement with
20 the explanation's substance by the members of the general assembly.

21 GENERAL. This bill amends provisions in Code chapter 185C
22 which authorizes the collection and expenditure of certain
23 moneys referred to as a state assessment (assessment), or
24 so-called "checkoff", which is collected on each bushel of corn
25 marketed in this state. The assessment is collected when a
26 corn producer (producer) sells the corn to a first purchaser.
27 The first purchaser then remits the assessment to the Iowa corn
28 promotion board (board) which uses the collected moneys for
29 purposes of promoting the marketing of corn and corn products
30 and to provide for related education and research programs
31 and a financial assistance program (Code sections 185C.11,
32 185C.11A, and 185C.26).

33 BILL — INCREASE IN MAXIMUM RATE OF STATE ASSESSMENT. The
34 bill increases the maximum rate of the assessment from one to
35 five cents which must be approved by producers voting in one

1 or more future special referendums. However, the maximum rate
2 cannot exceed an amount established according to a schedule
3 based on a 12-month period referred to as a marketing year
4 (from September 1 to August 31). The maximum rate existing
5 during this marketing year (September 1, 2013 to August 31,
6 2014) must remain at one cent. The maximum rate for the
7 next five marketing years (September 1, 2014 to August 31,
8 2019) cannot exceed two cents. The maximum rate for the next
9 five marketing years (September 1, 2019 to August 31, 2024)
10 cannot exceed three cents. The maximum rate for the next five
11 marketing years (September 1, 2024 to August 31, 2029) cannot
12 exceed four cents. The maximum rate for all future marketing
13 years beginning September 1, 2029, cannot exceed five cents.

14 BILL — SPECIAL REFERENDUM PROCEDURES. The bill requires
15 the secretary of agriculture (secretary) to maintain a
16 producer voting list which includes the names and addresses
17 of producers to notify in the event that the board calls for
18 a special referendum to increase the assessment. The list is
19 not a public record subject to disclosure under Code chapter
20 22. A producer may submit a mail ballot request card prior
21 to an upcoming special referendum. If timely received, the
22 secretary must deliver a mail ballot to the producer together
23 with a certification form which the producer must return to the
24 secretary. The completed mail ballot and certification must
25 be received by the secretary on or prior to the date of the
26 special referendum or be postmarked on or prior to that day.
27 The secretary is authorized to contract with a person qualified
28 to assist in performing services related to conducting a vote
29 by mail.

30 BILL — SETTLEMENT SHEET. The bill requires that when a
31 first purchaser provides a purchase invoice to a producer, the
32 first purchaser must also provide other settlement documents,
33 including a registration postcard that allows a producer to
34 be included on the producer voting list and a refund form to
35 receive back the paid state assessment.

1 CURRENT LAW — SPECIAL REFERENDUM PROCEDURES. Once the
2 board notifies the secretary of its decision to propose a rate
3 increase, the secretary provides notice of the referendum in a
4 newspaper of general circulation in the state within 10 days
5 prior to the date of the special referendum (Code section
6 185C.16). The notice must specify the time and place for
7 voting.

8 CURRENT LAW — ESTABLISHMENT OF THE BOARD AND ASSESSMENT.
9 An initial producer referendum established the board and the
10 imposition of an assessment according to a promotional order
11 adopted at an initial referendum (Code sections 185C.2 and
12 185C.3). The assessment was originally set at one quarter
13 cent.

14 CURRENT LAW — INCREASING THE RATE. In order to increase
15 the rate, the board must submit the question to producers
16 at a special referendum conducted by the secretary. The
17 secretary must provide a notice of the special referendum in
18 state newspapers (Code section 186C.16). If producers vote to
19 approve an increase, the board has the discretion to impose the
20 new rate and set its effective date, so long as the increase
21 does not exceed the rate approved by producers. The maximum
22 rate cannot exceed one cent (Code section 185C.21) which is the
23 rate currently assessed.

24 CURRENT LAW — FIRST PURCHASER'S INVOICE AND PRODUCER'S
25 RIGHT TO REFUND. The first purchaser must prepare a purchase
26 invoice at the time of sale stating the amount of the sale
27 and the associated deduction of the assessment (Code section
28 185C.22). A producer has 60 days in order to claim a refund
29 by submitting an application which must include a copy of the
30 purchase invoice or similar settlement documentation (Code
31 section 185C.27). Upon request, the board must provide a first
32 purchaser with an application form, and first purchasers must
33 furnish application forms to first producers.

34 APPLICABLE PENALTIES. A person who violates a provision
35 of Code chapter 185C is subject to a simple misdemeanor (Code

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1 section 185C.31). A simple misdemeanor is punishable by
2 confinement for no more than 30 days or a fine of at least \$65
3 but not more than \$625 or both.